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FILED

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RICHARD H. WEARE, CLERK  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

BY /s/ C. Farni  
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

In the matter of

THE PLAN FOR THE UNITED STATES  
DISTRICT COURT FOR THE DISTRICT  
OF ARIZONA, PURSUANT TO THE  
CRIMINAL JUSTICE ACT

GENERAL ORDER NO. 98-12

**IT IS ORDERED** that the Criminal Justice Act Plan for the District of Arizona, dated February 23, 1971, be amended as follows:

**ADDENDUM TO THE PLAN  
FOR THE IMPLEMENTATION OF  
THE CRIMINAL JUSTICE ACT OF 1964,  
AS AMENDED, 18 U.S.C. § 3006A**

WHEREAS, the number of death row inmates who will exhaust their state court remedies and be in a position to seek federal habeas corpus relief in this District is expected to increase;

WHEREAS, representation of persons who have been convicted and sentenced to death requires a specialized knowledge of state and federal appellate procedure, certiorari practice, state and federal habeas corpus procedure, criminal and Eighth Amendment jurisprudence and entails an extraordinary commitment of time;

WHEREAS, this Court is responsible for ensuring the adequate representation of financially eligible persons seeking federal habeas corpus relief when such representation is required in the interest of justice;

WHEREAS, the Capital Representation Project is a non-profit defense counsel service designed

1 to furnish representation, and assistance in connection with the representation of death-sentenced  
2 inmates in the State of Arizona.

3 WHEREAS, subsection (g) of the Criminal Justice Act of 1964, as amended, 18 U.S.C. § 3006A  
4 [hereinafter referred to as "the Act"] authorizes the establishment of Community Defender  
5 Organizations in adjacent districts in which at least 200 persons annually require the appointment of  
6 counsel, and the District of Arizona meets that requirement,

7 **IT IS THEREFORE ORDERED**, that the Plan for the Implementation of the Criminal Justice  
8 Act for the District of Arizona, dated February 23, 1971, is hereby amended to provide the designation  
9 of the Capital Representation Project as a Community Defender Organization in accordance with  
10 subsection (g)(2)(B) of the Act, and subject to the conditions subsection (g)(2)(B) of the Act, and  
11 subject to the conditions set forth below:

12 (1) The Capital Representation Project is authorized by this Plan to provide representation,  
13 assistance, information, and other related services to eligible persons and appointed attorneys in  
14 connection with federal death penalty habeas corpus cases pursuant to subsection (g)(2)(B) of the Act.  
15 As provided in the Criminal Justice Act Plan for the District of Arizona, the Capital Representation  
16 Project also may provide such services in those courts. The by-laws of the Capital Representation  
17 Project are incorporated as part of the Plan, and a copy of said by-laws shall be maintained by the Clerk  
18 of Court and attached to the original of this Plan.

19 (2) The Capital Representation Project shall operate pursuant to the provisions of subsection  
20 (g)(2)(B) of the Act, the terms and conditions of the sustaining grant, and the Guidelines for the  
21 Administration of the Criminal Justice Act, Volume III, Guide to Judiciary Policies and Procedures),  
22 promulgated by the Judicial Conference of the United States pursuant to subsection (h) of the Act.

23 (3) The Capital Representation Project shall submit to the Judicial Conference of the United  
24 States an annual report setting forth its activities and financial position and the anticipated caseload and  
25 expenses for the next fiscal year.

26 (4) The Capital Representation Project shall furnish to this Court the initial roster of staff  
27 attorneys and shall report any changes thereto to the Court.

28 (5) The primary goal of the Capital Representation Project will be to assist the Court in ensuring

1 that adequate representation is provided to persons under death sentence who seek federal habeas corpus  
2 relief. Toward that end the Capital Representation Project will perform the following functions:

3 (a) The Capital Representation Project shall monitor all capital litigation in the State of  
4 Arizona.

5 (b) The Capital Representation Project shall screen and recruit qualified members of the  
6 private bar who are willing to provide representation in death penalty post-conviction proceedings in  
7 federal court and submit a list of such attorneys to the Court for approval as a "Special Death Penalty  
8 Habeas Corpus Panel".

9 (c) In each federal death penalty habeas corpus case in which the Court has determined  
10 that counsel shall be appointed, the Capital Representation Project shall provide to the Court the name  
11 of the next available member of the "Special Death Penalty Habeas Corpus Panel". In cases where the  
12 interest of justice requires the appointment of more than one attorney, the Capital Representation Project  
13 shall furnish the name of two attorneys.

14 (d) The Capital Representation Project shall be authorized to serve as counsel of record,  
15 and shall recommend to the Court those cases in which its appointment as counsel of record is  
16 appropriate.

17 (e) Upon the request, pursuant to subsection (e) of the Act and paragraph 3.16 of the  
18 Guidelines for the Administration of the Criminal Justice Act, of appointed or pro bono counsel in a  
19 federal habeas corpus death penalty case the Capital Representation Project shall provide consulting  
20 services in such areas as, but not limited to, records completion, exhaustion of state remedies,  
21 identification of issues, review of draft pleadings and briefs.

22 (f) The Capital Representation Project will coordinate resources with other state and  
23 national organizations providing legal assistance to death-sentenced inmates.

24 (g) The Capital Representation Project will maintain a brief bank and clearinghouse of  
25 materials to assist lawyers in death penalty habeas corpus cases in federal courts.

26 (h) The Capital Representation Project will perform such other tasks as may be  
27 necessary to ensure that adequate representation is provided to financially eligible persons in federal  
28 death penalty habeas corpus proceedings.

(6) In order to ensure the effective supervision and management of the Capital Representation Project, its Executive Director or Chief Attorney will be responsible for the assignment of cases (both as counsel of record and as consultant) among the staff attorneys in that office. Accordingly, the Court will assign cases in the name of the Executive Director or Chief Attorney rather than in the name of individual staff attorneys.

(7) The Capital Representation Project may obtain investigative, expert, or other services without regard to the requirements or limitations set forth in the Plan dated February 23, 1971, with respect to procurement of such services by panel attorneys, provided that total expenditures of the organization for investigative, expert, and other services do not exceed its grant authorization for these specific categories.

The provisions of the Plan dated February 23, 1971, shall remain in effect except to the extent that they are inconsistent with the provisions of the addendum, in which case the provisions of the addendum shall govern.

This amendment shall take effect upon its approval of the Judicial Council of the Ninth Circuit.

**DATED** this 13th day of October, 1988.

/s/ Charles L. Hardy  
Charles L. Hardy, Judge